

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 March 19, 2014
7 7:40 p.m.8 APPLICATION: Weissman
9 22 Larch Hill Road
Lawrence, New York

10 P R E S E N T:

11 MR. LLOYD KEILSON
12 Chairman13 MR. EDWARD GOTTLIEB
14 Member15 MR. MARK SCHRECK
16 Member17 MR. LESTER HENNER
18 Member19 MS. ESTHER WILLIAMS
20 Member21 MR. KENNETH GRAY, ESQ.
22 Village Attorney23 MR. MICHAEL RYDER
24 Building Department25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Okay, good evening, ladies
2 and gentlemen. Welcome to the Lawrence Board of
3 Zoning Appeals. Please turn off your cell phones.
4 And if there's any conversations, please take them
5 outside. Thank you so much.

6 We welcome Mr. Gray who is sitting in for
7 Mr. Pantelis this evening.

8 MR. GRAY: Good evening.

9 CHAIRMAN KEILSON: Thank you very much for
10 joining us. I hope you will feel the same at the
11 end of the evening.

12 Anyway, Mr. Ryder, proof of posting.

13 MR. RYDER: Yes, Mr. Chairman, I offer proof
14 of posting.

15 CHAIRMAN KEILSON: Thank you so much.

16 Okay, the first matters are requests for
17 extensions on variances. We have Avram Weissman,
18 22 Larch Hill Road, who sent in a letter
19 requesting an extension on his variance which is
20 about to expire. He is requesting a one-year
21 extension. The work was not completed due to some
22 overruns on his budget. And he expects to
23 complete it in a year's time.

24 Any objection from anyone?

25 (No response.)

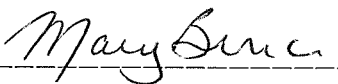
Weissman - 3/19/14

1 CHAIRMAN KEILSON: So one year is okay. No
2 problem.

3 (Whereupon, the hearing concluded at
4 7:41 p.m.)

5 *****

6 Certified that the foregoing is a true and
7 accurate transcript of the original stenographic
8 minutes in this case.

9
10 _____

11 MARY BENCI, RPR
12 Court Reporter
13
14
15
16
17
18
19
20
21
22
23
24
25

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York

6 March 19, 2014
7 7:41 p.m.

8 APPLICATION: Popack
9 350 Longwood Crossing
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. MARK SCHRECK
17 Member

18 MR. LESTER HENNER
19 Member

20 MS. ESTHER WILLIAMS
21 Member

22 MR. KENNETH GRAY, ESQ.
23 Village Attorney

24 MR. MICHAEL RYDER
25 Building Department

Mary Benci, RPR
Court Reporter

Popack - 3/19/14

1 CHAIRMAN KEILSON: The next one is a request
2 from Popack, 250 Longwood Crossing. We have a
3 letter from his attorney, Mr. Guardino, explaining
4 that no work was done due to Sandy and other
5 matters. In the letter he makes reference to the
6 fact that there are some changes pending on new
7 plans that had been submitted.

8 I think it's important we go on the record
9 that, in general, variances have to be adhered to
10 as approved. If there are going to be any
11 changes, then he will have to submit by review for
12 the Board. So it's important that we communicate
13 with attorney Guardino that if there are changes
14 that he's going to have to come back to the Board
15 for approval.

16 As far as the requests for extension of two
17 years, I think at this point since there is time
18 remaining on the variance to the end of May, I
19 would like to hear more from Mr. Guardino.
20 Perhaps at our next session, which is at the end
21 of April, there will be more adequate time to get
22 some details and we can take it under advisement
23 at that point in time. Okay.

24 MR. RYDER: That's good.

25 (Whereupon, the hearing concluded at

Popack - 3/19/14

1 7:43 p.m.)

2 *****

3 Certified that the foregoing is a true and
4 accurate transcript of the original stenographic
5 minutes in this case.

6
7 Mary Benci

8 MARY BENCI, RPR
9 Court Reporter

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York

6 March 19, 2014
7 7:43 p.m.

8 APPLICATION: Albert
9 455 Mistletoe Way
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. MARK SCHRECK
17 Member

18 MR. LESTER HENNER
19 Member

20 MS. ESTHER WILLIAMS
21 Member

22 MR. KENNETH GRAY, ESQ.
23 Village Attorney

24 MR. MICHAEL RYDER
25 Building Department

Mary Benci, RPR
Court Reporter

Albert - 3/19/14

1 CHAIRMAN KEILSON: The first matter this
2 evening we'll address is that of Albert of
3 Mistletoe Way. If Mr. Albert or anyone on his
4 behalf is present.

5 MR. ELBAUM: Hi, good evening. My name is
6 Eli Elbaum from the firm Forchelli, Curto, Deegan,
7 located at 330 Earle Ovington Boulevard,
8 Uniondale, New York.

9 Good evening, Chairman, members of the Board,
10 Counselor. This is an application for surface
11 coverage for the premises 455 Mistletoe Way,
12 Section 41, Block 15, Lot 1, located in the
13 Residence AA Zoning District.

14 You may recall, that this residence was
15 before this Board in 2011 seeking a few variances
16 for the construction of a single-family residence
17 and a pool, among other items. Those variances
18 were granted. There was a height variance, a lot
19 coverage variance, as well as a building coverage
20 variance. During those -- over the course of
21 those hearings --

22 CHAIRMAN KEILSON: If I may ask, what was the
23 term of the variance, how long?

24 MR. ELBAUM: I believe it was two years. I
25 don't --

Albert - 3/19/14

1 CHAIRMAN KEILSON: Do you know if any
2 extension was requested? Mr. Meister is here.

3 MR. MEISTER: I'm not sure. We're in the
4 middle of construction.

5 CHAIRMAN KEILSON: Let Mary know your name
6 and address.

7 MR. MEISTER: Warren Meister, the architect
8 for the premises, 22 Kendall Drive, New City,
9 New York.

10 CHAIRMAN KEILSON: Mr. Ryder, from the
11 Building Department, do we know if there was an
12 extension on the variance?

13 MR. RYDER: I don't know that right now,
14 Mr. Chairman.

15 CHAIRMAN KEILSON: Mr. Gray, if there was not
16 an extension of the variance, what's the status of
17 the work?

18 MR. GRAY: Well, it's -- I mean, substantial
19 compliance construction would have had to start
20 within six months from my understanding of that
21 variance, and it would have had to be complete two
22 years from the date of the issuance, which I
23 believe was April 2011.

24 CHAIRMAN KEILSON: Right.

25 MR. ELBAUM: Substantial construction

1 certainly has commenced, although the construction
2 isn't completed. I don't know and certainly can
3 know, not at the present moment unfortunately,
4 whether extension was applied for and/or granted
5 by the Board.

6 CHAIRMAN KEILSON: Well, if the variance has
7 expired, what's the status of the construction?

8 MR. GRAY: Well, in theory, the variance
9 would expire and a CO would not be able to be
10 issued for the project.

11 MEMBER GOTTLIEB: From a practical position
12 of this evening, are we able to hear an extension
13 or a modification after a variance that has
14 expired?

15 MR. GRAY: It's a valid question.

16 MEMBER GOTTLIEB: I'm sorry. I didn't mean
17 to put you on the spot.

18 MR. GRAY: No, no, that's quite all right. I
19 don't believe you even have an application for an
20 extension in front of you.

21 MEMBER GOTTLIEB: It's not an extension. I
22 meant a modification I guess is what I meant.

23 MR. GRAY: Well, I mean, the question is can
24 you modify something that's already expired is the
25 problem.

Albert - 3/19/14

1 MEMBER WILLIAMS: That's what he's asking.

2 MR. GRAY: Well, that is the problem. And if
3 it's a request for an extension, it probably
4 wasn't posted as a request for an extension on any
5 notices or agenda. Is that correct, Mr. Ryder?

6 MR. RYDER: Correct.

7 MR. GRAY: I don't have the posting here so
8 it could be problematic. I'm trying to put it
9 delicately.

10 MR. ELBAUM: Since I unfortunately don't have
11 the answer to this question, I would just ask,
12 customarily, has this Board reheard -- in the
13 event that applications -- variances that were
14 granted have expired, would the Board hold any new
15 hearing as if they were coming anew? Or is there
16 a concept of a request for an extension, I guess,
17 after the variance has expired without an actual
18 public hearing as if the Board hasn't heard the
19 merits of the case before? Because if the answer
20 is the latter, I --

21 CHAIRMAN KEILSON: The answer is that we
22 haven't been faced with this problem before, at
23 least in my experience.

24 MEMBER GOTTLIEB: Not that I recall.

25 MR. ELBAUM: There are two other cases here.

Albert - 3/19/14

1 Perhaps if I suggest we could move to another case
2 while I can possibly check with my office as to
3 see if I can produce something evidencing that it
4 was extended.

5 CHAIRMAN KEILSON: Good idea, very good idea.
6 Thank you.

7 (Whereupon, a recess was taken; the
8 application was recalled.)

9 CHAIRMAN KEILSON: We'd like to call back the
10 Albert group.

11 MR. ELBAUM: Hello.

12 CHAIRMAN KEILSON: So what has your research
13 uncovered?

14 MR. ELBAUM: We don't believe an extension
15 has been filed from either of our offices or the
16 applicant, so we don't believe an extension has
17 been filed period.

18 With that in mind, first, I'd just want to --
19 where we are -- or where, excuse me. Where the
20 applicant is, is essentially almost done with
21 completion of the building, almost ready to move
22 in and furniture.

23 MR. MEISTER: Furniture is ordered, painters
24 about to start. We're nearly there.

25 MR. ELBAUM: Now, with that in mind and

1 reviewing the code in the time-out as thoroughly
2 as one could out there, and reviewing the actual
3 approval from 2011, I don't believe the 24-month
4 limitation, if you will, is codified. I think it
5 is a condition of the Board. I didn't find it in
6 the statute -- in the zoning statute.

7 With that in mind, I believe it would be
8 possible for the Board to waive or amend a
9 condition. In other words, it's not a legislative
10 act by the Board of Trustees that only the Board
11 of Trustees can waive or amend. It's a condition
12 of a variance imposed by the Board of Zoning
13 Appeals that the Board of Zoning Appeals can
14 certainly waive or amend, and we would formally
15 request right here that the Board do that and
16 allow us to continue.

17 CHAIRMAN KEILSON: Care to respond,
18 Mr. Henner?

19 MEMBER HENNER: Look, I appreciate that you
20 are asking for a waiver. On the other hand, I
21 think it sets a bad precedent for an applicant to
22 be -- I don't want to say in default, because
23 that's a bad term, but to have missed a deadline
24 on a variance. Variances have conditions, like
25 you just heard eighteen months on the last one,

Albert - 3/19/14

1 and this was given two years and it was missed by
2 almost a year. So I would think rather than ask
3 the Board to waive it, the proposal that should
4 come forward is, you know what, we missed it,
5 we'll apply for it, and you'll have it before --
6 you'll have it, you know, on Monday, and just put
7 it on for the next month, okay, because I think --
8 and then combine everything, because otherwise
9 you're asking the Board to sit here and deal with
10 an application that's lapsed, or a variance that's
11 lapsed, and what kind of precedent would that be
12 for every variance that's granted. You've been
13 here all night. You saw how flexible we are.
14 Every variance that was asked for tonight went
15 through, up until now. But your time has lapsed,
16 and I think the right way to go is more to say,
17 you know what, it didn't happen, I don't know who
18 did and who forgot, whatever, these things happen,
19 and I understand that. We'll do it, we'll come
20 back. The next meeting is in April. We'll bring
21 all our papers. We'll then request a variance.
22 This way you can post public notice of it. That's
23 it. Don't ask the Board to waive its requirement.
24 The ball is in your court; the ball is not in the
25 Board's court. And it's a bad precedent, in my

Albert - 3/19/14

1 opinion. I'm just one guy here, and I'm a friend
2 of your application, I like your application, but
3 procedurally, you know --

4 MR. ELBAUM: I absolutely understand.

5 MEMBER HENNER: You follow?

6 MR. ELBAUM: Can I just ask, when you say --
7 the it you referred to is an extension request
8 or --

9 MEMBER HENNER: I think at the beginning of
10 the meeting we granted two variance extensions.
11 Am I right, is that what we did? We granted
12 extensions that were the same -- you know, the
13 exact logistics will be explained to you. It's a
14 one-page letter, and then we're on for next month.
15 And I don't know any reason why -- I mean, I think
16 technically you have a variance that's lapsed.
17 Somebody could sit and issue stop work orders and
18 stuff like that. No one is doing that.

19 MR. ELBAUM: We certainly appreciate that.

20 MEMBER HENNER: Hey, that's not the world's
21 biggest favor, but by the same token, you can't
22 come and say how about the Board waive it and just
23 look the other way. That's bad news in my
24 opinion.

25 MR. ELBAUM: I appreciate that.

Albert - 3/19/14

1 CHAIRMAN KEILSON: We'll take into
2 consideration that today is the 19th. It's on the
3 26th of April I believe the next meeting.

4 MR. RYDER: 28th.

5 CHAIRMAN KEILSON: The 28th of April. And
6 two weeks of that is down time anyway for
7 Passover, so we're talking about a minimal period
8 of time.

9 MR. RYDER: April 30th, excuse me.

10 CHAIRMAN KEILSON: April 30th. It's still
11 minimal.

12 MEMBER HENNER: It's still April.

13 MEMBER GOTTLIEB: The fact that it will be a
14 year past its expiration, does that affect our
15 ability to give an extension?

16 MR. GRAY: No. I don't know who you're
17 asking, I'm sorry.

18 MEMBER GOTTLIEB: I didn't know who I was
19 asking either. I was asking counsel, yes.

20 MR. ELBAUM: And just as a formality, if I
21 may ask, a stand-alone extension would require a
22 public hearing -- I'm sorry, a public notice for
23 that extension?

24 MEMBER WILLIAMS: The same public notice that
25 we have to give.

Albert - 3/19/14

1 MR. ELBAUM: I'm just asking, okay.

2 MR. MEISTER: So does the public notice that
3 we had for tonight's appearance --

4 CHAIRMAN KEILSON: It should stand good for
5 that as well. We don't require for extension a
6 public notice.

7 MR. GRAY: It would be a continuation of
8 tonight's hearing.

9 CHAIRMAN KEILSON: Right, a continuation.
10 Okay, so that being said, any other comments?

11 MR. MEISTER: We would just --

12 MR. ELBAUM: And the object would be to hear
13 the extension request as well as the extension of
14 the --

15 MR. GRAY: The merits.

16 MR. ELBAUM: -- the merits of the new
17 application -- or the continued application?

18 CHAIRMAN KEILSON: If you don't wish to
19 extend it --

20 MR. ELBAUM: The extension of the extension,
21 if you will.

22 MEMBER GOTTLIEB: You might get either one.
23 We just don't know which.

24 MR. ELBAUM: Either way, it will be an
25 extension.

Albert - 3/19/14

1 CHAIRMAN KEILSON: We'll review the variances
2 and then, yes, the answer is yes.

3 MR. ELBAUM: All right, we appreciate it.

4 CHAIRMAN KEILSON: So it's not adjourned.
5 It's continued to the next.

6 MR. GRAY: Correct. It's basically a motion
7 to continue this hearing at the April 30th
8 hearing, with the understanding that the
9 application is going to submit a -- the applicant
10 is going to submit an application for an extension
11 of time for the previously granted time frame in
12 his variance.

13 MR. MEISTER: Does this extension letter have
14 to come from the architect's office or could it
15 come from the --

16 MR. ELBAUM: We'll figure that out.

17 MR. RYDER: Either or. We accept it from the
18 architect. We accept it from the homeowner. It's
19 more personal from the homeowner.

20 CHAIRMAN KEILSON: But then it's not
21 billable.

22 MR. RYDER: Mr. Meister, that can be
23 addressed to my office.

24 MR. MEISTER: Terrific.

25 MR. ELBAUM: Thank you. We appreciate it.

Albert - 3/19/14

1 Have a good night.

2 MEMBER GOTTLIEB: See you next month.

3 (Whereupon, the hearing concluded at

4 8:55 p.m.)

5 *****

6 Certified that the foregoing is a true
7 and accurate transcript of the original
8 stenographic minutes in this case.

9

10

Mary Benci

11

MARY BENCI, RPR
Official Court Reporter

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York

6 March 19, 2014
7 7:48 p.m.

8 APPLICATION:

9 Saffra
10 22 Bayberry Road
11 Lawrence, New York

12 P R E S E N T:

13 MR. LLOYD KEILSON
14 Chairman

15 MR. EDWARD GOTTLIEB
16 Member

17 MR. MARK SCHRECK
18 Member

19 MR. LESTER HENNER
20 Member

21 MS. ESTHER WILLIAMS
22 Member

23 MR. KENNETH GRAY, ESQ.
24 Village Attorney

25 MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

Saffra - 3/19/14

1 MR. SAFFRA: Good evening. My name is Norman
2 Saffra, 22 Bayberry Road, Lawrence, New York. I'm
3 the homeowner.

4 CHAIRMAN KEILSON: One second.

5 MR. SAFFRA: Sure.

6 CHAIRMAN KEILSON: Off the record.

7 (Whereupon, a discussion was held off the
8 record.)

9 CHAIRMAN KEILSON: Back to Saffra. You're
10 coming --

11 MR. SAFFRA: My architect this evening,
12 Mr. Capobianco, unfortunately could not attend, as
13 he had an emergent medical procedure done this
14 afternoon. He apologizes.

15 CHAIRMAN KEILSON: I can attest to the fact
16 that it's true. I was on the plane with him about
17 a week ago, and he was in no shape to make a
18 presentation.

19 MR. SAFFRA: So this evening I'm going to be
20 representing myself, if it please the committee
21 and the Chair.

22 Ten years ago I came before this Board
23 requesting a variance for some work we were doing
24 on the house. Since that time we've been blessed
25 with further expansion of our family, and at this

1 time I come before the Board again now seeking an
2 additional variance for proposed work.

3 Our proposed work is to --

4 CHAIRMAN KEILSON: It would be very helpful
5 if you start with what was proposed last time,
6 what was granted last time, and then we'll go
7 into --

8 MR. SAFFRA: Absolutely. I didn't know if
9 the Board was hot or not.

10 CHAIRMAN KEILSON: We're very hot. However,
11 there's a lot of documents here, so we want to
12 make it very simple.

13 MR. SAFFRA: Not a problem.

14 Ten years ago, we applied and were granted
15 the following: The ability to extend the house
16 onto the side here which took us onto Bayberry
17 Road, where an extension of two bedrooms was
18 added. An extension was granted to push out the
19 front of the house several feet so we could redo
20 the grade of the steps as there were quite a
21 number. An extension was added in the rear taking
22 away an existing overhanging deck and putting in a
23 den at that point in time. We also added an
24 external deck up on the second story which is 19
25 feet by 14 feet that is currently in existence,

1 and if it please the Board, a rear photo --

2 CHAIRMAN KEILSON: We have that. As a hot
3 Board, we reviewed it.

4 MR. SAFFRA: We propose at this current point
5 in time removing said deck and extending the
6 kitchen then into the area occupied by the deck.
7 So it would --

8 CHAIRMAN KEILSON: Would it be the same
9 square footage?

10 MR. SAFFRA: Same square footage. The deck
11 -- underneath the deck is currently concrete so
12 that there are -- there is no water issue because
13 that area is already covered by concrete, so it
14 should not add to any existing water drainage
15 issues. We plan on keeping exactly within that
16 footprint of the existing deck. And that because
17 of that, we --

18 CHAIRMAN KEILSON: Is that a two-story
19 structure you're putting in?

20 MR. SAFFRA: Two-story structure. We would
21 like to know --

22 CHAIRMAN KEILSON: Below is storage?

23 MR. SAFFRA: Storage, correct.

24 CHAIRMAN KEILSON: And above?

25 MR. SAFFRA: Above, kitchen extension.

1 Because of the configuration, we are in need of
2 three variances; one for setback ratio, the other
3 for a rear-yard setback. Again, it's already in
4 existence as is, but because this is --

5 CHAIRMAN KEILSON: Well, it would go to the
6 same point as the den?

7 MR. SAFFRA: Correct, correct.

8 CHAIRMAN KEILSON: That's why you're
9 requesting the 30 foot, more or less.

10 MR. SAFFRA: Correct.

11 CHAIRMAN KEILSON: As opposed to the 40
12 that's required.

13 MR. SAFFRA: Correct.

14 CHAIRMAN KEILSON: But in fact, you already
15 have that pre-existing.

16 MR. SAFFRA: Correct, correct.

17 CHAIRMAN KEILSON: Okay.

18 MR. SAFFRA: And with the additional, as the
19 deck does not count for building coverage, but it
20 only counts for lot coverage, the request increase
21 in building coverage is what we are here for this
22 evening. When one adds the deck to the numbers,
23 the 14 by 19 square feet, that's 266 square feet,
24 we're adding for our existing 2,935 up to the
25 proposed 3,253, if you count the deck within that

Saffra - 3/19/14

1 additional space we're requesting only 52
2 additional square feet because we're eliminating
3 the deck. I have taken these plans and reviewed
4 it.

5 CHAIRMAN KEILSON: So you're saying if we had
6 looked at the deck as building coverage --

7 MR. SAFFRA: Correct.

8 CHAIRMAN KEILSON: -- the differential would
9 be 52 feet?

10 MR. SAFFRA: Correct. I have reviewed the
11 plans.

12 CHAIRMAN KEILSON: On the other hand, if we
13 had looked at the deck originally as such, we may
14 not have -- as building coverage, we may not have
15 granted the variances.

16 MR. SAFFRA: Very well said, Chairman.

17 CHAIRMAN KEILSON: Okay.

18 MR. SAFFRA: I have reviewed the plans with
19 all the neighbors. The neighbors all who abut my
20 property, including the rear yard and side yard,
21 have signed the petition supporting the extension,
22 and I'd like to submit that as Exhibit 1 or A.
23 It's the only one I have.

24 MR. GRAY: We'll make that part of the
25 record.

1 MEMBER GOTTLIEB: Mike, there was mention of
2 24 feet. Has that been resolved or still open?

3 MR. RYDER: If we can go back to 2003. You
4 know your property better than anybody.

5 MR. SAFFRA: Yes.

6 MR. RYDER: The site plan shows a setback to
7 the rear property line of 24 feet.

8 MR. SAFFRA: Actually, I have a survey
9 post-construction that shows more than that. So
10 the 24 was an error, clearly, because the
11 post-construction survey shows that we have
12 40 feet from the building, but only 30 feet from
13 the deck (hanging).

14 MR. RYDER: Forty feet to the building was
15 always established.

16 MR. SAFFRA: Correct.

17 MR. RYDER: That we have, that's accurate,
18 but to the deck we show it at 24. And there's a
19 letter from the Village, there's a site plan.
20 What you're telling me is that now you'll have a
21 30-foot setback?

22 MR. SAFFRA: Correct.

23 MR. RYDER: Which is more?

24 MR. SAFFRA: Correct, per the -- in our
25 measurements from the surveys and the plans,

Saffra - 3/19/14

1 correct. There may be and that the difference in
2 the calculation may be that there is a slight
3 overhang of the deck from the support structures,
4 and that's going to be flush with the support
5 structures, so that overhang may be that
6 difference in the calculation.

7 MEMBER WILLIAMS: Six feet.

8 MR. SAFFRA: There is a small cantilever and
9 that's probably what represents from the
10 cantilever as opposed to where the concrete is,
11 and you can see that on the photograph.

12 MEMBER WILLIAMS: If the building will only
13 go to the concrete.

14 MR. SAFFRA: Correct.

15 MR. RYDER: Does that satisfy?

16 CHAIRMAN KEILSON: We just want to be
17 accurate.

18 MR. RYDER: Thank you, Mr. Saffra.

19 MR. SAFFRA: Thank you.

20 CHAIRMAN KEILSON: Okay. In terms of the
21 water spill-off, now we have a structure coming
22 all the way down, we're enclosing it for storage,
23 the lower part, so how are we addressing that?
24 And what's the story with Bayberry in general at
25 that area; are there flooding issues? Are there

Saffra - 3/19/14

1 water issues?

2 MR. RYDER: Bayberry is in the flood zone.
3 There is flooding in that area, I would say in 50
4 percent of the rainstorms.

5 Correct me if I'm wrong, Mr. Saffra, but
6 there are several dry wells on the property?

7 MR. SAFFRA: Correct.

8 MR. RYDER: The deck which is open below had
9 a slab underneath which is similar to the coverage
10 that would be with the building.

11 MEMBER GOTTLIEB: And that slab was not
12 considered building coverage, obviously.

13 MR. RYDER: No, it was surface coverage.

14 MEMBER GOTTLIEB: During Superstorm Sandy,
15 did you experience water in your house?

16 MR. SAFFRA: No, I did not. We were the high
17 point of Bayberry with the refugees coming up to
18 our abode.

19 MEMBER WILLIAMS: You said before the
20 property between the posts to the house that's
21 concrete now?

22 MR. SAFFRA: That's concrete underneath,
23 correct.

24 MEMBER WILLIAMS: So you're basically
25 covering concrete.

Saffra - 3/19/14

1 MR. SAFFRA: Correct.

2 MEMBER WILLIAMS: You're not covering any
3 grass area.

4 MR. SAFFRA: Correct, correct.

5 MEMBER WILLIAMS: I just wanted to clarify
6 that.

7 MEMBER GOTTLIEB: Either way, for 266 square
8 feet do we need to put in dry wells, Mike,
9 generally?

10 MR. RYDER: Generally, yes, yes. That he has
11 dry wells on the site and that there will be no
12 increase but of 52 square feet, I believe what he
13 has currently on the site is sufficient for
14 drainage.

15 CHAIRMAN KEILSON: Dr. Saffra, do we have to
16 be concerned about creepy annexation here? Are we
17 going to see you in a few years?

18 MR. SAFFRA: Well, since I'm already now
19 fifty, and my wife is -- yes, and my wife is, I
20 think we are at a point where while it's lovely to
21 visit this Board, I'd rather be home doing
22 homework with the kids. Let me rephrase that.
23 Strike that from the record, please. That will
24 come back and bite me.

25 CHAIRMAN KEILSON: Any questions from any

Saffra - 3/19/14

1 Board members?

2 MEMBER GOTTLIEB: I consider this to be
3 approximately an 11 percent surface, rather not
4 surface, building coverage, and that's the
5 percentage that I'm going to use when I consider
6 this application for my vote.

7 CHAIRMAN KEILSON: Okay. Does anyone in the
8 audience want to comment?

9 (No response.)

10 CHAIRMAN KEILSON: Okay, so as my colleague
11 has said, it's an additional 11 percent over the
12 existing going onto the existing concrete slab,
13 and just enclosing area that's already there. So
14 I think we're quite sympathetic and since you're
15 50 years old.

16 MEMBER GOTTLIEB: Additional sympathy goes
17 out.

18 MR. SAFFRA: I appreciate that.

19 CHAIRMAN KEILSON: So taking into
20 consideration the criteria that we normally use,
21 summarized in the form of a benefit to the
22 applicant as against any detriment to the
23 community, we'll vote at this time. So I'll turn
24 to my right.

25 MEMBER SCHRECK: I'm going to vote for.

Saffra - 3/19/14

1 CHAIRMAN KEILSON: Mr. Gottlieb.

2 MEMBER GOTTLIEB: I vote for.

3 CHAIRMAN KEILSON: Mrs. Williams.

4 MEMBER WILLIAMS: For.

5 CHAIRMAN KEILSON: Mr. Henner.

6 MEMBER HENNER: For.

7 CHAIRMAN KEILSON: And I will vote for as
8 well. And we'll give two years.

9 MR. RYDER: Two years.

10 CHAIRMAN KEILSON: If you have to extend,
11 please make sure you remember.

12 MEMBER HENNER: Try to remember. Diary the
13 date.

14 MR. SAFFRA: I thank the committee for your
15 time and for your efforts.

16 MR. RYDER: Mr. Saffra, just one minute --
17 Doctor, excuse me.

18 MR. SAFFRA: I assimilated tonight.

19 CHAIRMAN KEILSON: He's off-duty now.

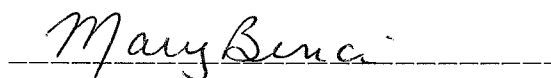
20 MR. RYDER: Board of Building Design. This
21 application will have to go in front of the Board
22 of Building Design for further approval.

23 MR. SAFFRA: Understood.

24 (Whereupon, the hearing concluded at
25 8:00 p.m.)

Saffra - 3/19/14

Certified that the foregoing is a true and
accurate transcript of the original stenographic
minutes in this case.

A handwritten signature in cursive script, reading "Mary Benci", is written over a horizontal dashed line.

MARY BENCI, RPR
Court Reporter

INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

March 19, 2014
8:00 p.m.

APPLICATION:

Heller
10 Dogwood Lane
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. MARK SCHRECK
Member

MR. LESTER HENNER
Member

MS. ESTHER WILLIAMS
Member

MR. KENNETH GRAY, ESQ.
Village Attorney

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

Heller - 3/19/14

1 CHAIRMAN KEILSON: The matter of Heller.

2 MR. BIENENFELD: Good evening, Mr. Chairman
3 and members of the Board, distinguished building
4 official and counsel. My name is Richard
5 Bienenfeld. I'm the architect for the Hellers who
6 are the owners of 10 Dogwood here in the Village.
7 And my office is at 271 North Avenue in
8 New Rochelle, New York.

9 And we made an application to this Board for
10 relief from basically two restrictions in the
11 Village's zoning code, one of which is building
12 coverage and the other is rear setback. We were
13 here before this Board about seven years ago, when
14 we requested relief from similar restrictions
15 when the house that was subsequently built was on
16 a much smaller lot, a lot of approximately half
17 the size that it currently has become since the
18 last time we were here.

19 Just to be more specific, a home was bought
20 -- was purchased by the Hellers on Meadow Lane
21 adjacent to their property, and a home was bought
22 a little while later on Larch Hill Road adjacent
23 to their property. Those two properties together
24 add up to about 26,000 square feet. The
25 improvements that were on those properties at the

Heller - 3/19/14

1 time were homes, and they were removed and
2 replaced with, you know, very beautiful, very lush
3 landscaping, designed by a very prominent
4 landscape architect, a fellow named Hank White.
5 And on one of the lots a swimming pool was
6 included; the other lot is basically green open
7 space with very, very lush landscaping and many,
8 many trees.

9 Just to put this in perspective a little bit,
10 the land itself drinks up about 3,000 cubic feet
11 of water per week just to maintain the plant
12 material that's on it. In terms of, you know,
13 helping out the Village with its storm water
14 problems, maintaining such a vast amount of open
15 space in this neighborhood, like I said, absorbs a
16 tremendous amount of water. Added to that, over a
17 thousand trees and shrubs have been planted which
18 also need thousands of cubic feet of water every
19 week.

20 When the Hellers originally planned the home,
21 when they originally planned the home, they had a
22 room set aside for Mrs. Heller's mother.
23 Mrs. Heller is here tonight and you're free to ask
24 her any questions. But a room was set aside with
25 a bath. At that time she was a woman in her

1 eighties and they wanted to keep her close and
2 help her out and help her to be one of the family,
3 a place where she could be visited by her
4 grandchildren, her great grandchildren.
5 Subsequent to that, this area that was designated
6 for her, which I'm circling with my finger on this
7 plan, unfortunately, Mrs. Heller's mom has
8 developed certain disabilities of her age and
9 she's now in her nineties and she needs full-time
10 24/7 care, and she needs accessibility to a
11 bathroom and accessibility, you know, generally to
12 be able to get in and out of the house which is --
13 let me show the plan of the first floor.

14 So you know, right off the driveway there's
15 an entrance to the house, and immediately adjacent
16 to that entrance right off the driveway without
17 negotiating any steps is the suite that
18 Mrs. Heller's mom now has. However, because of
19 her current condition, and she does suffer from
20 Alzheimer's, she does need a lot of added
21 attention and that requires a place for a
22 caretaker to be able to sleep in her presence.
23 Very often there is a second caretaker who is
24 making up the next shift who needs to be present
25 as well. They overlap shifts. And there is a

Heller - 3/19/14

1 place where Mrs. Heller can -- or Mrs. Heller's
2 mom could be able to entertain guests and see her
3 kids, see her grandchildren without entering the
4 rest of the house.

5 Now, if you have questions about that,
6 Mrs. Heller is here to answer, you know, why it's
7 so important that she not wander through the rest
8 of the house. Any of us who have been associated
9 or who have been acquainted with people that age
10 who are suffering from that type of a malady know
11 the importance of having some definable space and
12 that's why it's all here. It's not a lot of space
13 that's being added. It's about 900 square feet
14 that's being proposed. That 900 square feet in
15 proportion, that's in proportion to the 26,000
16 square feet of lot area that has been added to the
17 property since the last variance. It's 900 square
18 feet of new construction verses the 5,000 square
19 feet of existing construction of the two homes
20 that were removed from those two lots. So 5,000
21 square feet of structure was removed, and 900
22 square feet of structure is being proposed in this
23 particular location, which is really the only
24 place it can go.

25 CHAIRMAN KEILSON: Is that a new office for

1 her as well?

2 MR. BIENENFELD: The new office is actually
3 proposed for the house manager who, right now,
4 yes, he has certain responsibilities for her, but
5 he has responsibilities for the household as a
6 whole and right now he doesn't have an office. So
7 that was also proposed, you know, in this
8 vicinity, in this location.

9 You know, the addition is kind of like being
10 woven into the -- you know, to kind of like the
11 existing setback lines that the house is occupying
12 now. It's actually about two feet further in than
13 the old variance allowed and that's so that we can
14 make use of existing foundation lines that are in
15 the backyard for a staircase and for a terrace.
16 And that's important because if we're able to use
17 that foundation line we only need 36 linear feet
18 of new foundation to do this whole addition.

19 So that really minimizes the amount of
20 disruption to the landscape.

21 But this is something which is extremely
22 important to the Hellers, and I think it's, you
23 know, a beautiful commendable project for them to
24 want to take care of their mom, not to leave it up
25 to others, but to take care of her in their own

1 home in a place where she's comfortable and a
2 place where she can find some orientation and love
3 from all the people who are around her, and that's
4 why they want to do it, that's why they want to do
5 it.

6 And again, I'm emphasizing how minimal this
7 is in terms of, you know, the overall scope of the
8 landscape that we're talking about. By the way,
9 besides the fact that the landscape itself absorbs
10 huge amounts of water every day and the thousands
11 of shrubs that have been added to this property
12 absorb huge amounts of water every day, we have
13 provided a plan to provide within the crawlspace
14 of this new addition a water storage tank which
15 will take an additional 1,700 gallons of water.

16 MEMBER GOTTLIEB: I'm sorry. This 1,700,
17 this is roof runoff that's going in there?

18 MR. BIENENFELD: It's roof runoff prepared
19 for a three-inch sudden storm, a three-inch sudden
20 storm of three inches which is the guideline for
21 the Village. Three inches could be accommodated
22 100 percent in a storage tank that will eventually
23 through a very, very small outlet leach into the
24 existing storm water system, which is the most
25 sophisticated system probably in the entire

1 Village. It has sixteen interconnected
2 underground tanks that hold the water and slowly,
3 slowly let it out. But like I said, the addition
4 of all the open space that's been added to the
5 land really does the job too, in addition to all
6 the plant life and all the vegetation that's been
7 lushly added to the site.

8 MEMBER HENNER: Can I ask you?

9 CHAIRMAN KEILSON: Jump in.

10 MEMBER HENNER: Good to see you again.

11 MR. BIENENFELD: Thank you. It's been seven
12 years.

13 MEMBER HENNER: My question is not related to
14 the water or the lushness or any of that stuff or
15 the square footage. The project itself, I can't
16 -- I think you said is it an extra 900 feet,
17 whatever it is?

18 MR. BIENENFELD: Yes.

19 MEMBER HENNER: How long of a project is that
20 to put together? Is it something that takes a
21 month, five months, a year?

22 MR. BIENENFELD: So the actual exterior work
23 is planned to be postponed till after the Jewish
24 holidays in October, okay. So that it doesn't
25 disturb anyone while they're enjoying their

1 outdoor season. So that was something which the
2 Hellers actually spoke to their neighbors, and
3 they agreed that would be the best time to do it.
4 And most probably within 60 to 90 days all the
5 exterior work will be done, except possibly the
6 brick may have to be postponed till after the
7 winter of '14/'15.

8 MEMBER HENNER: Here's the thing. It's not a
9 trick question. I'm a neighbor from a couple of
10 blocks away. I'm not even within the 300 feet.
11 But my recollection from the last construction job
12 is that all of the construction what was done
13 through Meadow Lane and there were times when that
14 road was closed. There were times I was trying to
15 leave -- and I'm not personalizing it, it wasn't
16 just me. It happened to everybody. There were
17 times the road was closed. There were times you
18 couldn't move. There were times the traffic was
19 just stopped arbitrarily. There were no Village
20 officials, just workers would shut down the road,
21 and it was causing problems. I don't know if you
22 know about that or not.

23 And you know, assuming everything else is
24 okay, how do you address it? Unless there's
25 another way of going in there. I don't know if

Heller - 3/19/14

1 this is going through Dogwood or again intended to
2 go through Meadow Lane. Meadow Lane is this wide
3 (indicating). And if this thing is going to be
4 shut down to do this extension, it's going to be
5 an issue. That's the question.

6 MR. BIENENFELD: The answer to the question
7 is this is a much, much smaller project. And a
8 lot of the reasons why, you know, there was so
9 much disruption on Meadow Lane for the first
10 project was, first of all, it was an enormous
11 project, it was about twenty times the size of
12 this project.

13 Also, the amount of landscaping that was
14 brought in, you know, there were mature trees that
15 were delivered through Meadow Lane. None of that
16 is going to happen with this project. This is a
17 900 square-foot addition. It's one story. It's
18 very, very simple to build, very, very simple to
19 frame. Like I said, only 36 linear feet of new
20 foundation is going in. It could be done in a
21 couple of weeks, and the framing also a matter of
22 weeks, and then that's all the heavy construction.
23 Everything else is normal interior work for 900
24 square feet. So you know, I --

25 CHAIRMAN KEILSON: Why would we want to

1 subject the residents again, irrespective of the
2 size of the project, to any further disruption?
3 It wasn't that the disruption was done in a nice
4 way. There were times, and I called the Building
5 Department and said they're setting up signs
6 closing the road again, who authorized it? And
7 they did it unilaterally. There were times when
8 it was highly dangerous. They stuck pylons out in
9 the street on that curvature.

10 MR. BIENENFELD: Mr. Chairman, I can't
11 answer, you know, about the sequence of
12 construction because that's not the architect's --

13 CHAIRMAN KEILSON: No, it goes to the
14 detriment of the community, though yet again the
15 subject is something that went on for five years.

16 MR. BIENENFELD: What I have to say is this
17 is something which the family needs. The
18 restrictions that are in the zoning, you know, I'm
19 addressing restrictions in the zoning. I can say
20 and I think anybody can say that this scope of a
21 900 square-foot, one-story addition is a much
22 smaller scope, and it will be done at a time of
23 year when people are not using their properties
24 outdoors. And the Hellers have agreed to do that,
25 and I think it's very reasonable that the heavy

Heller - 3/19/14

1 construction could be done in 60 to 90 days. It
2 does not have to involve any disruption of
3 Meadow Lane, and I think that's something which
4 the contractor will have to work out with the
5 Building Department and with the traffic
6 department that they do not do that.

7 MEMBER SCHRECK: Mr. Bienenfeld, can you
8 explain why is there a need for a variance when
9 the Hellers own the residence that's adjacent to
10 their house and perhaps that could be used for the
11 mother.

12 MR. BIENENFELD: Actually, there is a family
13 living in that house now. It's one of the
14 Hellers' children who lives in the house, and they
15 are a large family, and space was made within the
16 house so that the Hellers could take care of their
17 mother in their home, as I think a lot of us would
18 like to do if we had the ability to do it. And
19 it's something which they thought of and which
20 they provided for, but they didn't think about the
21 added difficulties of this period of her life.
22 That they weren't prepared for.

23 MEMBER GOTTLIEB: Mr. Bienenfeld, it's not
24 uncommon that we get requests from homeowners that
25 have to take care of a parent. We see at least

1 four or five applications a year. So we're quite
2 sympathetic to the need.

3 This not only could be the largest house that
4 had that application, but the largest request to
5 add 900 feet. When I looked at the land where
6 you're proposing to do this, you've got so much
7 open space going toward Larch Hill Road, and this
8 is such a congested area, and I think that's why
9 we're concerned about where the construction is
10 going to be coming from.

11 I haven't voiced an opinion about the closing
12 of Meadow Lane; fortunately, I don't have to take
13 Meadow Lane often, but I had heard quite a number
14 of comments about it. This is just a couple of
15 comments I'm making all at the same time.

16 So the question is, in a house of this size,
17 and I know you're trying to accommodate their
18 need, is there not a space or can a space in the
19 house not be reconfigured?

20 MR. BIENENFELD: I could address that and
21 I'll just show you the plan, okay. You know, it's
22 a center-hall house. It has a large dining room,
23 it has a family room, a kitchen, a library and a
24 living room. Very, very typical rooms for a
25 ground floor in a house. They are large rooms but

1 they're typical. They're, of course, highly
2 developed and they're beautifully finished. It
3 would be a shame to demolish those rooms for this
4 purpose. And truthfully, they need a large dining
5 room and they need a large kitchen and they need a
6 large family room, you know, not unlike other or
7 many families in the Village who entertain their
8 children and grandchildren during holidays when no
9 one can go home and they have to stay in the
10 house. They need that. And by the way, these
11 room sizes, other than perhaps the dining room,
12 are very, very typical of other homes in the
13 Village.

14 But the spot that was designated originally
15 was put here for a reason. It's close to the
16 driveway, and someone who is disabled can get out
17 of a car into a wheelchair, into the house without
18 negotiating any steps and right into this suite.
19 That's the reason why it's here.

20 Also, Meadow Lane is -- you know, is totally
21 screened. You know, this is a winter shot taken a
22 few weeks ago. You know, it's totally screened in
23 the winter. In the spring and summer it's a wall
24 of green, and it doesn't disturb anyone. No one's
25 aware of it, and it's actually the best place to

1 put it. And other than, you know, some disruption
2 which is just caused by construction, you know,
3 you can't say we're not going to do construction
4 in the Village anymore because it's disruptive.
5 This will be a minimal, minimal, minimal
6 disruption.

7 MEMBER HENNER: One second. You know, it's
8 you know, minor knee surgery when it's somebody
9 else's knee. When it's my knee it's not minor.
10 And when you say minor, and again, this is nothing
11 personal to my being able to go home, but when all
12 of a sudden this is a public street in the
13 Village, and it's a narrow street, and once you're
14 there you can't move, okay. And all of a sudden,
15 all of a sudden somebody's workers deign to shut
16 down the street on you, they don't have that
17 right. And it's not minor; it's annoying when
18 you've got to get someplace, when you need the
19 facilities yourself and you're trapped in your
20 car. It's not a pleasant thing to see you guys
21 telling you that you can't go anywhere. It's got
22 to be -- the last time, nobody knew. I wasn't on
23 the Board. But now people know, and it happened
24 before, and it's not a question of people being
25 able to use their backyards. It's a matter of

Heller - 3/19/14

1 Rockaway Boulevard is a major thoroughfare.
2 Meadow Lane is Rockaway Boulevard. It can't be
3 the Board would approve a variance knowing up
4 front that there's going to be construction delays
5 caused to the Village residents on a major
6 thoroughfare of this Village. And it's got to be
7 -- I recognize you're the architect, not a traffic
8 consultant, but I'm not the only one. It's a
9 major issue here.

10 MR. BIENENFELD: May I put it in this light,
11 Mr. Henner?

12 MEMBER HENNER: Please, it's Lester.

13 MR. BIENENFELD: And to all the other Board
14 members here.

15 This lot is still an independent lot and it's
16 still an as-of-right building lot in the Village.
17 And it faces Meadow Lane and it fronts on
18 Meadow Lane. It has an address on Meadow Lane,
19 it's 92 Meadow Lane, and it's been maintained that
20 way, and a house can be built here as of right
21 without even visiting this Board. A 5,000
22 square-foot house could be built right here, a
23 5,000 square-foot house could be right here on
24 Meadow Lane as of right. And we wouldn't even
25 have to come to the Board. Yes, it's not as

1 convenient as having it over here. But this is a
2 much more minimal request. And we would much
3 rather build it here than build it here. Plus we
4 could build another 5,000 square-foot house on
5 Larch Hill Road. That is an independent lot on
6 Larch Hill Road. It does not need any -- any
7 approval by this Board. It is an as-of-right
8 building lot on Larch Hill Road. It had a house
9 on it, it was removed; a new house could be put
10 back as of right. These lots were added after the
11 previous variance was granted.

12 What we are saying is we have all this open
13 space. We're asking this Board to consider this
14 fact that with all this beautifully landscaped
15 open space we're looking to put a small addition
16 in the crevice of the plan that faces Meadow Lane.
17 And like you said, it's a thoroughfare, it doesn't
18 bother anybody. It has a brick wall in front of
19 it. It has a dark green wall of vegetation behind
20 that. It's totally screened from anybody.

21 There may be 60 to 90 days' construction
22 going on. I doubt if there will be much
23 disruption. I'm not the contractor; I can't
24 guarantee that, but I'm sure he would. There are
25 gates, by the way where materials and even

1 vehicles could come in and not disrupt the traffic
2 on Meadow Lane, but that's the truth.

3 The truth is they could build on Meadow Lane.
4 They don't have to come to this Board, and they
5 could build a 5,000 square-foot house on
6 Meadow Lane, not a 900 square-foot addition.

7 MR. RYDER: Mr. Bienenfeld, if I may, just
8 for the record, I understand when you say you
9 could build as of right, but currently that lot,
10 the three are merged as one, so when you're saying
11 as of right, you would have to go through
12 subdivisions to subdivide the two that have
13 already been merged to one, and then you would
14 exacerbate your variances on the existing lot.

15 So for the record, when you're saying as of
16 right, you had it prior to, but as of right now,
17 today, I don't think that's accurate.

18 MR. BIENENFELD: Well, when I say as of
19 right, I mean according to the Village zoning.
20 According to the Village zoning, these lots are
21 as-of-right lots and they can be subdivided as of
22 right. Of course, they have to go through a
23 process, I acknowledge that, of course.

24 CHAIRMAN KEILSON: You're trying to balance
25 that against --

Heller - 3/19/14

1 MR. BIENENFELD: But a visit to this Board
2 would not be necessary.

3 MEMBER WILLIAMS: No, but the variances would
4 be different on the original property.

5 MR. BIENENFELD: No, they would not, because
6 the original property the variances were granted
7 on 28,000 square feet.

8 MEMBER WILLIAMS: I'm talking about in terms
9 of a request you're making now.

10 MR. BIENENFELD: In other words, had we come
11 here and had those lots been merged, yes, that
12 would be true. But those lots did not exist the
13 last time we were at this Board.

14 MEMBER WILLIAMS: All I'm saying is if you
15 sold the two of them off tomorrow and then your
16 request would be different because you wouldn't
17 have all that property in terms of the coverage.

18 MR. BIENENFELD: That's true.

19 MEMBER WILLIAMS: That's all I'm saying.

20 MR. BIENENFELD: But they are here and they
21 are merged as one, so that is the request that
22 we're making tonight.

23 MEMBER WILLIAMS: You want it both ways.

24 MR. BIENENFELD: But saying, you know, that
25 any construction on Meadow Lane cannot be done in

Heller - 3/19/14

1 the Village of Lawrence is just not true.

2 MEMBER HENNER: Time out.

3 CHAIRMAN KEILSON: Whoa, whoa, whoa.

4 MEMBER HENNER: If you want me to ask her to
5 read the record back, I will. I didn't say that.
6 What I did say is that there was a major
7 disruption to residents by that construction
8 several years ago. Major, okay. And the question
9 was, which I think is a legitimate question, not
10 because I raised it, but just because it's
11 legitimate, and that is what will be done to
12 minimize disruption? We didn't say no
13 construction could be done on Meadow Lane, but
14 there is a legitimate concern to say what's going
15 to be -- first of all, it is a very dangerous
16 spot. It's a rounded curve, and if you don't know
17 the guys are stopped there, you've run around the
18 curve and all of a sudden there's some worker
19 there with a stop sign. You know, it's not a
20 police department stop sign. He makes up a stop
21 sign, he became the policeman there. I think it's
22 a legitimate concern that needs to be addressed
23 and shouldn't just -- I recognize as of right and
24 all that stuff, that's great. But even as of
25 right, you still have to address the concerns of

Heller - 3/19/14

1 the Village as far as traffic is concerned, don't
2 you think? It might not be your area, but you
3 know.

4 MR. BIENENFELD: Of course they have to be
5 addressed in the normal way that they're always
6 addressed when there's construction in the
7 Village. I don't think that's an issue in terms
8 of granting a variance for building lot coverage
9 and granting a variance to rear-yard setback. I
10 don't think they're cogent to that type of
11 application that's before you. That might be a
12 different concern of the Building Department
13 during construction to keep the right of way
14 clear, and I applaud that, and I think -- I think
15 that's important that those who do build respect
16 that, and I assume they will.

17 MEMBER HENNER: I hear you, but I think in
18 terms of the balancing of the equities and the
19 detriment to the Village and the benefit to the
20 homeowner, and stuff like that which you're well
21 aware of, that the traffic concerns fall under the
22 rubric of detriment to the community or detriment
23 to the neighbors and stuff like that. So I don't
24 think that -- I think it is cogent to the -- it
25 might not have anything to do with square footage

1 per se, I agree with that, it's got zip to do with
2 square footage, but I think it's a legitimate
3 balancing question, and that's all and I'd just
4 like to hear that there's a recognition that it's
5 a concern and that it will be dealt with, as
6 opposed to saying it's only going to be 60 to 90
7 days, don't worry about it.

8 MR. BIENENFELD: First of all, it certainly
9 is a concern and certainly will be dealt with. I
10 just want to say this for the record as well, that
11 the issue of the relief from building area and
12 rear-yard setback it's those issues that are the
13 legitimate concerns of the variance -- of the
14 Board of Zoning Appeals. Their concern is whether
15 or not the relief that we are seeking for building
16 area and for rear lot line are being addressed
17 properly in terms of the spirit of what those
18 zoning restrictions are supposed to do.

19 Now, you know, the zoning restrictions
20 themselves and, you know, please feel free to
21 comment on why I'm saying this, but the purpose of
22 these restrictions is to control the bulk and the
23 size of the buildings that are built within a
24 certain zone. And the addition of a 900
25 square-foot improvement to this house in light of

Heller - 3/19/14

1 the 26,000 square feet of lot area that's been
2 added is clear that it's within the spirit of the
3 bulk restrictions, especially it's a one-story
4 addition, within the bulk restrictions of the
5 Village's zoning code. The Village's zoning code
6 is there to control bulk. The Village zoning code
7 is not really there to address matters of traffic
8 and disruption because it's not within the purview
9 of this Board.

10 CHAIRMAN KEILSON: I have to dissent. The
11 five criteria, the statutory criteria do have an
12 element beyond your philosophical discussion of
13 bulk. If you go through the statutory criteria,
14 it's quite clear that things such as the impact on
15 the Village in terms of traffic and the like
16 definitely are relevant. It talks about things as
17 can the benefit sought by the applicant be
18 achieved by some method other than a variance?
19 Will the proposed variance have an adverse effect
20 on the physical environmental conditions of the
21 neighborhood? Is the alleged difficulty for the
22 applicant self-created? You know, there's more
23 than just looking at the square footage, and I
24 understand your philosophical bent, but we have to
25 be concerned about broader needs of the Village

1 which do fall within the criteria of our
2 consideration in terms of, you know, giving a
3 variance.

4 And the problem here is there's a very bad
5 track record. There's a track record of not
6 caring, okay. Whether it be with this contractor.
7 I'm not saying it's the Hellers, but this went on
8 for five years.

9 MR. BIENENFELD: Yeah, I must say to this
10 Board, and this I know for to be true, the Hellers
11 whenever they had any complaints or issues brought
12 up by a neighbor they attended to it. They
13 attended to it wholeheartedly and satisfied every
14 neighbor's concern.

15 CHAIRMAN KEILSON: Again, I'm not speaking of
16 the Hellers. I want to make that a hundred
17 percent clear.

18 MR. BIENENFELD: By the way, I don't see any
19 neighbors here this evening.

20 CHAIRMAN KEILSON: I'm a neighbor. I live in
21 the Village. I was disrupted time and time again.
22 Ask Mr. Ryder how many calls he got.

23 MR. BIENENFELD: Mr. Chairman, if I may.

24 CHAIRMAN KEILSON: Yes.

25 MR. BIENENFELD: We're talking about bulk and

Heller - 3/19/14

1 we're talking about dimension. And I think it's
2 unfair for this Board to establish a precedent
3 that they're also going to start talking about
4 traffic disruption. Especially, there's --

5 CHAIRMAN KEILSON: It's not a precedent.

6 MEMBER HENNER: It's not a precedent.

7 CHAIRMAN KEILSON: Not at all.

8 MR. BIENENFELD: Let me say this. There's no
9 driveway facing Meadow Lane. You're talking about
10 only during a limited period of construction.

11 CHAIRMAN KEILSON: Can you do the
12 construction from some other vantage point?

13 MEMBER GOTTLIEB: From Dogwood?

14 MR. BIENENFELD: I assume it can. I assume
15 it can.

16 MEMBER GOTTLIEB: Since --

17 MR. BIENENFELD: I assume they can
18 wheelbarrow stuff in. I don't know if that would
19 be less disruptive.

20 CHAIRMAN KEILSON: Certainly not disruptive
21 to Meadow Lane.

22 MEMBER GOTTLIEB: The adjacent home is owned
23 by the homeowner.

24 MR. BIENENFELD: Yes.

25 MEMBER GOTTLIEB: So they're inconveniencing

Heller - 3/19/14

1 themselves.

2 MR. BIENENFELD: Yes.

3 MEMBER GOTTLIEB: It's just an option.

4 CHAIRMAN KEILSON: Would there be any issue
5 if we make it contingent on construction being
6 done out of Dogwood?

7 MR. BIENENFELD: That's up to the Board.
8 That's up to the Board.

9 MEMBER GOTTLIEB: What's the square footage
10 of the house as it stands today?

11 MR. BIENENFELD: The footprint of the house
12 totally, it's on my chart, it stands today as
13 7,304 square feet.

14 MEMBER GOTTLIEB: That's the footprint. But
15 the house in total?

16 MR. BIENENFELD: Well, it's a little less
17 than double that. There are, you know, some
18 two-story spaces in the house.

19 MEMBER GOTTLIEB: The basements are not
20 counted?

21 MR. BIENENFELD: There's a finished basement
22 as well.

23 MEMBER GOTTLIEB: Does that get counted in
24 square footage? This is not a trick question. I
25 just would like to know, do we count basements in

1 total square footage?

2 MR. BIENENFELD: Well, there is a playroom in
3 the basement which is habitable, but the rest of
4 the basement is storage rooms, mechanical rooms,
5 so there is a large playroom probably about six or
6 700 square feet.

7 MEMBER GOTTLIEB: So when one considers the
8 size of the house, you're only including habitable
9 space, not including finished basements?

10 MR. BIENENFELD: Well, again, you have to say
11 what you want to count. If you want to count all
12 the storage space, all the mechanical, the boiler
13 room --

14 MEMBER GOTTLIEB: So the size is up to the
15 interpreter of how they want to present it?

16 MR. BIENENFELD: Well, you know, there are
17 always guidelines in how you measure square
18 footage, you know. I'm sure there's a guideline
19 in our own code, and there's a guideline -- the
20 Real Estate Board has a guideline. There's all
21 different ways of talking about square footage,
22 but generally we talk about -- in our field we're
23 talking about habitable space.

24 MEMBER GOTTLIEB: Finished space.

25 CHAIRMAN KEILSON: I'd like to go into

Heller - 3/19/14

1 executive session with counsel just to talk about
2 some aspects of it, so we'll break for a few
3 minutes.

4 (Whereupon, a recess was taken; the
5 application continued.)

6 CHAIRMAN KEILSON: Back on the record with
7 the Heller matter. Mr. Bienenfeld.

8 MR. BIENENFELD: Yes.

9 CHAIRMAN KEILSON: I think we all understand
10 the compelling arguments you make as to the
11 square-footage issue and why it's almost
12 de minimis considering the acquisition of property
13 since the last series of variances were granted.
14 And so we're not unsympathetic to that aspect.

15 We also understand the special circumstances
16 involved in trying to accommodate an elderly
17 parent, again we're not unsympathetic, and we've
18 heard such matters before, and we've always been
19 extremely forthcoming and willing to accommodate.
20 So we're not going to vary from our history in
21 terms of trying to accommodate the residents in
22 these types of situations. At the same time we do
23 have to take cognition of the fact that there is
24 an issue in terms of accessibility to the site and
25 the history in terms of things going on on that

Heller - 3/19/14

1 site from the Meadow Lane area.

2 So what I'm going to propose is that we
3 condition the variances on the access to the
4 construction being done either from the Dogwood
5 side or from the Larch Hill Road side, whatever is
6 easier for you or the contractors, but it can't be
7 done from the Meadow Lane side.

8 MR. BIENENFELD: Okay.

9 CHAIRMAN KEILSON: That's the proposal I'm
10 making before the Board. And I think within the
11 criteria I think we can balance all of the
12 equities, and I think we can arrive at an
13 appropriate decision.

14 MR. BIENENFELD: Thank you. I think that's
15 very fair, and I would certainly recommend to my
16 clients to accept that with that restriction.

17 CHAIRMAN KEILSON: Okay. So I'm going to put
18 it before the Board now to vote, again, to approve
19 the variances as presented in terms of square
20 footage, in terms of the backyard, the side yard,
21 whatever the issue is, and conditioned on the fact
22 that the construction only will be from either the
23 other local streets, that's Dogwood or Larch Hill,
24 as opposed to from Meadow Lane.

25 Again, with that in mind, Mr. Henner.

Heller - 3/19/14

1 MEMBER HENNER: I'm in favor.

2 CHAIRMAN KEILSON: Mrs. Williams.

3 MEMBER WILLIAMS: For.

4 CHAIRMAN KEILSON: Mr. Gottlieb.

5 MEMBER GOTTLIEB: In favor.

6 CHAIRMAN KEILSON: Mr. Schreck.

7 MEMBER SCHRECK: For.

8 CHAIRMAN KEILSON: And I'm for as well.

9 And we urge you to try to do it as
10 expeditiously as possible. I understand you've
11 outlined it and it's subject to climate conditions
12 and the like, but in light of the fact there's
13 been so much construction for so many years I
14 think it would behoove you to further expedite the
15 project as possible.

16 MR. BIENENFELD: The Board's points are well
17 taken. Thank you very, very much. Thank you,
18 good night.

19 CHAIRMAN KEILSON: Thank you.

20 MR. RYDER: Did we give a time frame?

21 CHAIRMAN KEILSON: What time frame should we
22 give you, how many days?

23 MR. GRAY: One year is --

24 MR. BIENENFELD: We plan to start
25 construction, like I said, in the fall after the

Heller - 3/19/14

1 Jewish holidays and complete construction by
2 spring of 2015.

3 CHAIRMAN KEILSON: So eighteen months.

4 MR. BIENENFELD: Thank you.

5 CHAIRMAN KEILSON: Eighteen months.

6 MR. RYDER: And Board of Building Design.

7 MR. BIENENFELD: Board of Building Design.

8 Thank you very much.

9 MR. RYDER: Eighteen months.

10 (Whereupon, the hearing concluded at
11 8:55 p.m.)

12 *****

13 Certified that the foregoing is a true and
14 accurate transcript of the original stenographic
15 minutes in this case.

16
17 _____

18 MARY BENCI, RPR
19 Court Reporter
20
21
22
23
24
25